IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2006

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THE HONOURABLE MR. JUSTICE P.SATHASIVAM

C.R.P(PD)Nos.652 and 653 of 2006 and
C.M.P.No.6296 of 2006

1. C.R.Shankar
2.S.Lakshmi ... Petitioners in both CRPs.
(Defendants 1 and 2)

Versus

T.R.Maragatham ... Respondent in both CRPs.
(Plaintiff)

Civil Revision Petitions filed under Art.227 of the Constitution of India against the decreetal order and order passed in I.A.Nos.6191 and 6192 of 2006 in O.S.No.6587 of 2000 on 6.4.2006 by the learned XVII Asst.Judge, City Civil Court, Chennai.

For Petitioners : Mr.N.Kirupakaran
For Respondent : Mr.Anirudhan

ORDER

Aggrieved by the common order dated 06.04.2006 made in I.A.Nos.6191 and 6192 of 2006 in O.S.No.6587 of 2000 on the file of XVII Assistant Judge, City Civil Court, the petitioners herein - defendants preferred the present revisions before this Court under Article 227 of the Constitution of India.

2. The respondent-plaintiff filed O.S.No.6587 of 2000 praying for decree for Rs.2,08,000/- together with interest at the rate of 36% per annum on Rs.1,00,000/- from the date of plaint till realisation of the amount. The petitioners herein - defendants filed a written statement disputing the claim of the plaintiff. While so, the defendants filed IA No.6191 of 2006 under Order 16 Rule1(2) of Code of Civil Procedure praying to issue a sub poena to the Inspector of Police (L&O) R.7, K.K.Nagar Police Station, Chennai 78 relating to receipt No.1058/CSR/R7/2000 dated 30.08.2000 to appear before the Court and produce the entire records relating to the said police complaint. The defendants also filed I.A.No.6192 of 2006 praying to issue summons to (1)Jaffar Jinnah and (2) S.Prabhavathy @ Mehrunnissa who are none else than the daughter and the son-in-law of the

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plaintiff to appear before the Court and depose relating to the suit on the side of the defendants. The learned trial Judge, after finding that there is no pleading regarding the same and there is no necessity for the Police Officer to come and depose, dismissed both the petitions, hence the present revisions under Article 227 of the Constitution of India.

3. Learned counsel appearing for the petitioners submitted that in the absence of particulars about the cheque based on which the suit has been filed and the coercion and intimidation, which led to making a complaint to the Police, the Court below ought to have accepted both the petitions filed by them. As against the said contention, the learned counsel appearing for the respondent submitted that in view of the earlier proceedings and the orders passed by the same Court as well as this Court, there is no bonafide in the claim made by the defendants and the court below is fully justified in dismissing both the petitions and prayed for dismissal of the revisions.

4. In so far as the police complaint said to have been made in the year 2000, if a copy of the complaint and receipt are with the defendants, they are free to make use of the same. As rightly pointed out, had necessary steps taken pursuant to the said complaint, the concerned Police Officer could have issued a copy of the First Information Report. It is not clear as to the outcome of the investigation based on their complaint said to have been made on 30.08.2000. In the absence of such particulars, it will not be fair on the part of the Inspector to come and depose after six years based on the unregistered complaint.

5. Coming to the contention relating to the particulars of the cheque, learned counsel for the respondent/plaintiff pointed out that along with the plaint, a promissory note has been filed which contains all the required details of the cheque and the amount etc. In such circumstances, according to him, there is no merit in the present claim. I accept the said contention. Further, as rightly pointed out, even at the time of filing of the list of witnesses, the petitioners herein- defendants have not mentioned the name of daughter and son-in-law of the plaintiff to be examined on their side. It is not in dispute that the suit is at the part heard stage and is of the year 2000. It is also not in dispute that in the earlier proceedings, this Court has directed the trial Court to dispose of the suit within a period of six months. The said order was passed on 02.09.2005.

6. Taking note of all these factual details, I am unable to accept the contentions raised by the learned counsel for the petitioners and there is no error or infirmity for interference by this Court at this juncture. Both the revision fails and are

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dismissed.

7. In view of the earlier litigations and various orders passed by the trial Court as well as this Court and the fact that the earlier direction for disposal of the suit has not been fulfilled, at the instance of both the parties and taking note of the admitted factual position that the suit has reached the argument stage, I hereby direct the trial Court to dispose of the suit within eight months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Registrar, City Civil Court,
Chennai.

2. The XVII Assistant Judge,
City Civil Court, Chennai.

ONE CC TO MR.N.KIRUPAKARAN, ADVOCATE SR 50437

C.R.P. PD. Nos.652
and 653 of 2006

JRG(CO)

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